

PURPOSE

To ensure all discharges and leaves of absence for persons adjudicated not guilty by reason of insanity (NGRI) are reviewed and approved by the NGRI committee in accordance with applicable law, rules and policy. Treatment recommendations are based on actual individualized needs, including risk mitigation strategies, and are provided in the least restrictive setting that is appropriate and available.

DEFINITIONS**Assisted Outpatient Treatment (AOT) Order**

A directive issued by a probate court requiring a person to undergo AOT consistent with §468(2)(c) and (d) of the Michigan Mental Health Code (MMHC). Assisted outpatient treatment can be an order to adhere to outpatient services or it may incorporate both outpatient and admission to a hospital.

Assisted Outpatient Treatment (AOT)

Services ordered by a probate court under §468 or 469a of the MMHC. AOT may include a case management plan and case management services to provide care coordination under the supervision of a psychiatrist and developed in accordance with person-centered planning under §712 of the MMHC. This definition also may include one or more of the following:

- Medication.
- Periodic blood tests or urinalysis to determine compliance with prescribed medications.
- Individual or group therapy.
- Day or partial day programming activities.
- Vocational, educational, or self-help training or activities.
- Assertive community treatment team services.
- Alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder.

- Supervision of living arrangements, and
- Any other services within a local or unified services plan developed under the MMHC that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior.

The medical review and direction included in AOT must be provided under the supervision of a psychiatrist.

Discharge

An absolute, unconditional release of an individual from a hospital by action of the hospital or a court. Discharge decisions must be based on each person's actual, real, and individualized risk mitigation and behavioral health treatment needs. For purposes of this policy, a discharge also includes a person's release from a hospital on an AOT order pursuant to §468(2)(c) and (d). This policy does not address an individual's discharge from an AOT order.

Forensic Liaison

An individual assigned by the Center for Forensic Psychiatry (CFP), another hospital operated by the department, or community mental health services program (CMHSP) to provide administrative management and coordination between the treating parties. Such coordination activities include, but may not necessarily be limited to, leave of absences (LOAs) and discharges.

Hospital

An inpatient program operated by the MDHHS for the treatment of individuals with serious mental illness, serious emotional disturbance or intellectual/developmental disability.

Individual Plan of Service (IPOS)

The fundamental document in the person's record, developed in partnership with the person using a person-centered planning process that establishes meaningful goals and measurable objectives including risk mitigation strategies overseen by the NGR Committee. The plan must identify services (including discharge

planning), supports and treatment as desired or required by the person.

Leave of Absence (LOA)

A temporary leave from a hospital ordered by a physician for treatment or community engagement purposes that does not exceed one year. The NGRI committee will be notified of LOAs and evaluate and approve any non-medical LOAs that include an overnight stay. Any LOA may require an NGRI committee evaluation and approval, if indicated in the IPOS and based upon the individualized treatment needs including appropriate risk mitigation strategies.

Not Guilty by Reason of Insanity (NGRI)

An affirmative defense to a prosecution of a criminal offense that the defendant was legally insane when they committed the acts constituting the offense. An individual is legally insane if, because of a mental illness as defined in § 400 of the MMHC, or because of having an intellectual disability as defined in §100b of the MMHC, that person lacks substantial capacity either to appreciate the nature and quality or the wrongfulness of their conduct or to conform their conduct to the requirements of the law. Mental illness or having an intellectual disability does not otherwise constitute a defense of legal insanity.

Not Guilty by Reason of Insanity (NGRI) Committee

A multidisciplinary committee consisting of forensic clinical staff (psychiatrists, psychologists, and social workers) who are certified/consulting forensic examiners. Members of the committee are appointed by the CFP director.

Person

For purposes of this policy, an individual that has been adjudicated NGRI.

Plan Coordinator

A licensed social worker or psychologist who integrates, coordinates, monitors and assures implementation of each person's IPOS. Monitoring includes ongoing review of the IPOS, recording progress and changes, and initiating modification of the IPOS as necessary. A member of the treatment team will be designated as

the plan coordinator for the hospital treatment team or community treatment team where indicated.

Risk Mitigation Strategies

Strategies in a person's IPOS designed to reduce a person's risk of harming themselves or others. Risk mitigations strategies must be tied to the person's behavioral health treatment needs.

Supervisory Level Forensic Psychiatrist

A 19-level, or higher, forensic psychiatrist assigned by the CFP director who coordinates services between the hospital treatment team, the NGRI Committee and the forensic liaison. This position advises the hospital treatment team to ensure, at a minimum, that risk mitigation strategies have been addressed based upon the person's behavioral health needs.

Treatment Team

Individuals who work together to develop and implement an IPOS. A treatment team includes the person, the person's guardian, a multidisciplinary team of mental health care professionals, including the plan coordinator, and involved direct care staff. A treatment team may either be a hospital treatment team or community treatment team.

Violent Crime

First, second- and third-degree murder, voluntary manslaughter, and criminal sexual conduct crimes.

POLICY

All persons adjudicated NGRI and who are probate court ordered for treatment are entitled to treatment, care, and services in the least restrictive setting that is appropriate and available. Decisions regarding treatment will be made to promote safely supporting persons in the least restrictive setting with community integrated services and ongoing outpatient treatment as clinically indicated.

PROCEDURE

A hospital or community treatment team must request, in writing, approval from the NGRI committee for a person's proposed discharge or LOA from a hospital. The request to the NGRI committee must include information relating to:

- The person's history.
- The person's present mental status.
- A detailed description of the proposed placement and services that ensure risk mitigation strategies are identified based upon the person's behavioral health treatment needs and available in the proposed setting.

Any recommended discharge or LOA from a hospital for a person who was acquitted by reason of insanity on charges of a violent crime, or upon request from the NGRI committee, must be reviewed for final approval by a forensic psychiatrist independent of the NGRI committee designated by the senior deputy director of the State Hospital Administration (SHA).

After reviewing the treatment team's request, the NGRI committee will:

- Either approve or disapprove the discharge or LOA. Written notification of the NGRI committee's decision must be provided to the person, the person's guardian, the hospital director, and the treatment team. If the request is denied:
 - The notification must include a detailed reason for the decision and treatment recommendations that will lead the person towards approval.
 - The hospital treatment team will notify the person, or their guardian, of their ability to file a petition for discharge per §484 of the MMHC.
 - The person, the person's guardian, the hospital director, or the community treatment team may request an administrative review of the denial to the SHA senior deputy director to ensure that the decision was made in compliance with §708 and §712 of the MMHC. If it is determined through the secondary review that there was non-compliance with those provisions the decision will be reconsidered by the NGRI committee for further action and approval by the SHA senior deputy director and the NGRI committee. The person and the requestor (if different) must be notified in writing of the outcome of the review.
- The decision will be entered into the electronic medical record and be made available to the court upon request.

Discharge

If a person is deemed clinically suitable for discharge from a hospital and still meets criteria as a person requiring treatment under §401 of the MMHC the NGRI committee may recommend a person be discharged on an AOT order per §472a.

At the expiration of the initial AOT order the NGRI committee may recommend a petition for a continuing AOT order if the person continues to require treatment pursuant to §401. The NGRI committee may make recommendations for a continuation of AOT orders in compliance with §472a. NGRI committee involvement in the AOT order will end when the risk mitigation goals are met. NGRI committee involvement shall not exceed five (5) continuous years during which the person is on an AOT order. Discharge of NGRI committee involvement does not preclude the CMHSP from seeking additional AOT orders if clinically appropriate.

The supervisory level forensic psychiatrist will:

- Provide input to the hospital treatment team regarding forensic processes to incorporate appropriate risk mitigation strategies into the IPOS in consultation with the NGRI committee. The IPOS must not include any additional restrictions or conditions that exceed the individualized risk mitigation needs. The NGRI committee must review and approve the risk mitigation strategies in the IPOS prior to discharge or LOA (if applicable).
- Receive clinical information from, and provide feedback to, the hospital treatment team on proposed changes to the IPOS as it relates to risk mitigation strategies and may consult with the NGRI committee to aid the hospital team in completing the IPOS.

The NGRI committee and CFP forensic liaison are notified immediately if the person experiences any significant changes in behavioral or medical health status as it impacts risk mitigation. The appropriate CMH forensic liaison may be required to notify the court pursuant to §475 of the MMHC.

At any time, the hospital or community treatment team may request urgent or emergent consultation with the NGRI committee for persons under their care.

REFERENCES

Michigan Mental Health Code, MCL 330.1401,330.1468,
330.1469a, 330.1482,330.1472a, 330.1483, 330.1484. MCL
330.1708. MCL 330.2050(5),

MDHHS Administrative Rule R330.10097

CONTACT

For more information, contact the State Hospital Administration.